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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/817,522	03/26/2001	Daniel W. Van Vleet	1752	7905

24264 7590 12/03/2002

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LAKEWOOD, CO 80226

EXAMINER

FERKO, KATHRYN P

ART UNIT	PAPER NUMBER
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3743

DATE MAILED: 12/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/817,522

Applicant(s)

VAN VLEET, DANIEL W.

Examiner

Kathryn Ferko

Art Unit

3743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 November 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 and 8-34 is/are pending in the application.
- 4a) Of the above claim(s) 7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Amendment***

A response to the amendment of September 23, 2002 was completed and sent before the supplement amendment. Thus, this is a response to the supplemental amendment of November 6, 2002.

Claims 1-6 and 8-34 are now pending.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pedersen et al. in US Patent No. 6,227,843 in view of Kent, Jr. in US Patent No. 5,404,864.

The declaration filed on September 18, 2002 has been found defective.

The explanation is provided in the office action dated November 13, 2002. Thus, the declaration has not been effective in removing the Pedersen et al. reference.

Pedersen et al. disclose a campfire apparatus (10) having a base (12) adapted to rest on a support surface when in the assembled state; a base (12) having a selected geometric size and shape; and a fire pan (14) having a substantially similar geometric size and shape as the base, as seen in figures 1-

3. As stated in the supplemental amendment of November 6, 2002, the term

“geometrically similar,” has been **interpreted by applicant’s representative** to mean, “... objects that share a similar shape and that are proportional in size rather than identical in size....” Thus, the fire pan (14) and base (12) of Pedersen et al. can be considered “geometrically similar” as defined by the applicant’s representative. Furthermore, Pedersen et al. also disclose a fire pan (14) adapted to be supported by the base when in the assembled state; a fire pan having a main body with an inner surface an upper rim and a pan interior, as seen in figures 1 and 2; a gas manifold (26) disposed in the fire pan when in the assembled state having at least one gas outlet operative to introduce vaporized fuel into the pan interior when connected to a source of fuel (42), as recited in column 3, lines 34-47 and seen in figure 3; and a quantity of low-density, non-flammable particulate material (48) adapted to be disposed in the fire pan at a depth sufficient to cover the gas manifold when in the assembled state, as recited in column 3, lines 47-51, column 4, lines 1-6 and seen in figure 2.

However, Pedersen et al. do not recite a spacer adapted to be interposed between the fire pan and base, when in the assembled state, so that the base supports the spacer and the spacer supports the fire pan. On the other hand, Kent, Jr. teaches a spacer (26) adapted to be interposed between the fire pan (generally at 34) and base (72), when in the assembled state, so that the base supports the spacer and the spacer supports the fire pan, as seen in figures 1-4. Therefore, it would be obvious to one with ordinary skill in the art at the time the invention was made to utilize the teaching of Kent, Jr. and provide the invention

of Pedersen et al. with a spacer interposed between the fire pan and base when in the assembled state so that the base supports the spacer and the spacer supports the fire pan for the purpose of spacing the base from the fire pan in order to further raise the fire pan area from the ground.

***Conclusion***

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathryn Ferko whose telephone number is (703) 306-3454. The examiner can normally be reached on M-F (7:30-5:00) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry A Bennett can be reached on (703) 308-0101. The fax phone numbers for the organization where this application or proceeding is assigned are (703)

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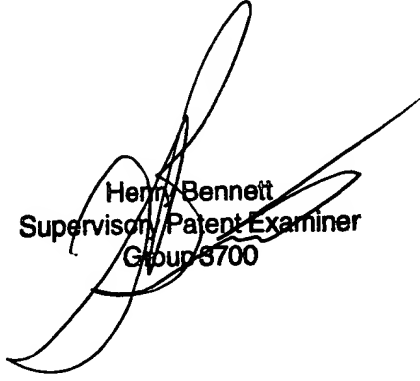
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872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

KF  
November 20, 2002



Henry Bennett  
Supervisor, Patent Examiner  
Group 3700